

18.1 INTENT

The purpose of this Chapter is to set forth procedures for amending the text of these regulations and the zoning classification of land as shown on the Land Development Map. The purpose is not to relieve particular hardships, nor to confer special privileges or rights on any person, but only to make adjustments necessary in light of changed conditions or changes in public policy. Procedures for making amendments to the Land Development text or map are also set forth.

18.2 AUTHORITY

Upon compliance with the provisions of this Chapter, the Town Board shall have the authority to amend or repeal the text of these regulations and the classification of any parcel of land, as indicated on the Land Development Map.

18.3 INITIATION OF A REZONING(NOT CD OR CZ) OR TEXT AMENDMENT PETITION

Any map or text amendment may be initiated by the Town Board or Planning Board on its own resolution, by any owner of a legal or equitable interest in the property affected by the amendment, or by a local government agency of Cornelius or by any other person living or owning property within the zoning jurisdiction of Cornelius in accordance with the procedures set forth herein.

When considering a petition for the re-classification of property to any district neither the Planning Board nor the Town Board shall evaluate the petition based on any specific proposal for the use or development of the affected property and the petitioner shall refrain from using any graphic materials or descriptions of the proposed use or development except for those which would apply to any use permitted in the requested district.

18.3.1 - Filing of Petitions; Determination of Completeness

For a re-classification of property or text amendment proposed by any person or entity other than the Planning Board or Town or for petition to change the text of this Ordinance, such petition shall be on an application form prescribed by the Planning Department and accompanied by the fee established by the Town Board. Said application form and fee shall be filed with the Planning Department. Said application form and fee shall be waived for any petition submitted by any Cornelius official or agency acting on behalf of the Town of Cornelius.

18.3.2 - Content of Application

- A. Each noncontiguous parcel of land for which rezoning is requested shall be deemed as a separate application, and said application fee shall accompany each application. For the purpose of this paragraph, land located and adjacent on either side to the rear and all property directly across any street or public right-of-way from the subject property shall be deemed to be contiguous.
- B. Each application for a rezoning of land shall be accompanied by five (5) copies of a map, drawn to scale, with the following information either shown on the map or accompanying it:
 1. The subject property plus such additional property as to show the location of the subject property with reference to the nearest street intersection, railroad, stream or other feature easily identifiable on the ground. In addition, all property lines which abut the property, and property owners' names and addresses of all contiguous properties shall be furnished.
 2. If the property is in a subdivision of record, a map of such portion of the subdivision that would relate the subject property to the closest street intersection, and in addition, the name of the subdivision and the plat addition and the names and addresses of all adjoining property owners (as indicated on the most up-to-date tax listings) shall be furnished.

3. A written metes and bounds description and a boundary survey of the property(s) proposed for rezoning shall accompany the map.
 4. The present and proposed zoning classification of the lot(s) in question.
 5. The property identification number(s) of the lot(s) in question as issued by the Mecklenburg County Tax Department.
- C. An application for a change in the text of the Ordinance shall be made in duplicate, on an application form provided by the Planning Department. The application shall contain a reference to the specific section, subsection, paragraph or item proposed to be changed, as well as the wording of the proposed change, and the reasons therefore.

18.3.3 - Planning Board Review and Recommendations of Rezoning or Text Amendment Petitions

Once the petition is complete, the Zoning Administrator shall refer the petition to the Planning Board for review and recommendation to the Town Board. The Planning Board shall have a maximum of thirty (30) days from the date they first meet to make such a recommendation. If a recommendation is not made during said time period, the application shall be forwarded to the Town Board without a recommendation from the Planning Board.

- A. If a recommendation is made to the Town Board by the Planning Board concerning a petition for rezoning, said recommendation shall be as follows:
 1. Grant the rezoning as requested, or
 2. Grant the rezoning with a reduction of the area requested, or
 3. Grant the rezoning to a more restrictive general zoning district or districts, or
 4. Grant the rezoning with a combination of 2 and 3 above, or
 5. Recommend that the application be denied.
- B. If a recommendation is made to the Town Board by the Planning Board concerning a petition to amend the text of this Ordinance, it shall be as follows:
 1. Adoption of the amendment as written, or
 2. Adoption of the amendment as revised by the Planning Board, or
 3. Rejection of the amendment.

18.3.4 - Notice for Town Board Public Hearing

In order for an amendment to the Land Development text or map to be made in accordance with this Section, a public hearing must first be held by the Town Board. Notification of the public hearing shall be as follows:

- A. A notice shall be published in a newspaper having general circulation in the town once a week, for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the hearing.
- B. A notice of a proposed Land Development Map change shall be sent by first class mail by the Zoning Administrator to the affected property and to all contiguous property owners.

The first class mail notice required under (B) of this section shall not be required when the zoning reclassification action directly affects more than 50 properties, owned by a total of at least 50 different property owners. In such case the Town shall publish once a week for two successive calendar weeks in a newspaper having general circulation in the area a map showing the boundaries of the area affected by the proposed ordinance or amendment. The map shall not be less than one-half of a newspaper page in size. The notice shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the Town's jurisdiction or outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by mail pursuant to this section. The person or persons mailing the notices shall certify to the Town Board that fact, and the certificates shall be deemed conclusive in the absence of fraud. In addition to the published notice, a city shall post one or more prominent signs on

or immediately adjacent to the subject property area reasonably calculated to give public notice of the proposed rezoning

18.3.5 – Town Board Action On Rezoning Or Text Amendment Petitions

- A. Protest Petitions. In case of protest against an amendment, duly signed by the owners of twenty percent (20%) or more of the area of the lots included in such proposed change or at least 5% of the land included within a 100-foot wide buffer around each separate area proposed for rezoning, such amendment shall not become effective except by a favorable vote of three-fourths (3/4) of all the members of the Town Board.

No protest against any proposed amendment shall be valid or effective unless it is in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the Zoning Administrator in sufficient time to allow the Town at least two (2) normal business days before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition.

- B. Public Hearing and Decision. Once the public hearing has been conducted the Town Board shall render a decision on the petition. The decision of the Town Board shall be in the form of any of the various options listed in Sections 18.3.4 (A) and (B). Alternatively, the Town Board may send the application back to the Planning Board for further study and consideration. The petitioner shall have the right to withdraw his petition at any time prior to the final decision being rendered by the Town Board. The Town Board shall have the authority to call for additional public hearings on any amended petition presented to them for approval as a result of public comments in the hearing. The Town Board shall also have the authority to submit such amended petition to the planning Board for additional review prior to any additional hearings. .

18.3.6 - Notification of Decision on Rezoning or Text Amendments Petitions

The final determination made by the Town Board shall be sent by first class mail by the Zoning Administrator to the applicant and any persons at or before the public hearing who have indicated in writing to the Zoning Administrator that they would like the decision mailed to them, within ten (10) working days following the date of said decision. Similarly, notice shall be sent to the applicant in the same manner if the Town Board makes a decision to re-submit the petition to the Planning Board for further review.

18.3.7 - Rehearing of Rezoning or Text Amendment Petitions

- A. An application for a rehearing shall be made in the same manner as provided for an original application within a period of fifteen (15) working days after the date of the Town Board decision. In addition, specific information to enable the Town Board to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically. A rehearing shall be denied by the Town Board, if, in its judgment, such change in facts, evidence or conditions has not been proven by the Applicant. A public hearing shall not be required to be held by the Town Board to consider holding such a rehearing. Approval of a reconsidered application shall, however, require an affirmative vote of at least four (4) voting members. In the event that the Town Board finds that a rehearing is warranted, it shall thereupon proceed to hold a new public hearing except that the application fee shall be waived.
- B. Every map or text amendment decision of the Town Board is subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina appropriately filed. Applicant shall be responsible for proper and timely filing of such proceedings.

18.3.8 - Re-Submission of Petition for Rezoning (Not Including Text Amendments)

- A. The Town Board shall not review any applications for the same map changes affecting the same property or any portion thereof until the expiration of one (1) year from the date of such previous denial.

- B. The Zoning Administrator may allow re-submission of such petition within said one (1) year period if it is determined that, since the date of the prior petition denial:
 - 1. There has been a significant change in the zoning district classification of an adjacent piece of property; or
 - 2. The Town Board has adopted a plan that changes public policy regarding how the property affected by the previous denial should be developed;
 - 3. Construction or expansion of a road, water line, sewer line, or other such facilities has occurred to serve the property and could adequately accommodate the intensity of development allowed under the proposed classification; or
 - 4. There has been some other extraordinary change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the one year restriction on a new petition; this, however, shall not include a change in the ownership of the subject property.

18.4 PARALLEL CONDITIONAL USE DISTRICTS (CD)

Parallel Conditional Use Districts (CD) may be utilized in the NR, NMX, VC, TC, HC, and IC Districts to allow for those situations where a particular permitted use, if properly planned, may be appropriate for a particular site, but where the general district has insufficient standards to mitigate the site specific impact on surrounding properties and neighborhoods. A quasi-judicial decision process will apply and the Town Board will decide both the rezoning and issuance of accompanied *Conditional Use Permit*.

18.4.1 - Initiation of a Parallel Conditional Use District Rezoning Petition

Any CD rezoning may be initiated by any owner of a legal or equitable interest in the property. When considering a petition for the re-classification of property to a CD district the Planning Board and the Town Board will consider the petition based on a specific proposal for the use or development of the affected property. The petitioner may use graphic materials or descriptions of the proposed use or development which would apply to any use permitted in the requested CD district

18.4.2 - Filing of Petitions; Determination of Completeness

For a CD re-classification of property proposed by any owner of a legal or equitable interest in the property such petition shall be on an application form prescribed by the Planning Department and accompanied by the fee established by the Town Board. Said application form and fee shall be filed with the Planning Department.

18.4.3 - Content of Application

- A. Each noncontiguous parcel of land for which rezoning is requested shall be deemed as a separate application, and said application fee shall accompany each application. For the purpose of this paragraph, land located and adjacent on either side to the rear and all property directly across any street or public right-of-way from the subject property shall be deemed to be contiguous.

- B. Each application for a rezoning of land shall be accompanied by five (5) copies of a map, drawn to scale, with the following information either shown on the map or accompanying it:
 - 1. The subject property plus such additional property as to show the location of the subject property with reference to the nearest street intersection, railroad, stream or other feature easily identifiable on the ground. In addition, all property lines which abut the property, and property owners' names and addresses of all contiguous properties shall be furnished.
 - 2. If the property is in a subdivision of record, a map of such portion of the subdivision that would relate the subject property to the closest street intersection, and in addition, the name of the subdivision and the plat addition and the names and addresses of all adjoining property owners (as indicated on the most up-to-date tax listings) shall be furnished.

3. A written metes and bounds description and a boundary survey of the property(s) proposed for rezoning shall accompany the map.
 4. The present and proposed zoning classification of the lot(s) in question.
 5. The property identification number(s) of the lot(s) in question as issued by the Mecklenburg County Tax Department.
- C. In addition to the above referenced general requirements, an application for the rezoning of land to a Parallel Conditional Use District (CD) shall be submitted in accordance with **Section 13.5 Development Plan Requirements**.

18.4.4 - Planning Board Review and Recommendations of a Parallel Conditional Use Zoning District

Once the petition is complete, the Zoning Administrator shall refer the petition to the Planning Board for review to make recommendations on additional conditions to the site specific plan. The Planning Board shall have a maximum of thirty (30) days from the date they first meet to make such a review. If a review is not made during said time period, the application shall be forwarded to the Town Board without a recommendation of conditions from the Planning Board. As part of its review the Planning Board may suggest site plan revisions to the applicant to be considered before the Town Board of Commissioner's hearing.

If a recommendation of additional conditions is made to the Town Board by the Planning Board concerning a petition for CD rezoning, said recommendation shall be as follows:

1. Recommend conditions to the rezoning enumerated on the accompanying site plan, or
2. Make no recommendation of additional conditions to the rezoning plan.

18.4.5 - Notice for Town Board Public Hearing

In order for a CD rezoning to be made in accordance with this Section, a quasi-judicial public hearing must first be held by the Town Board. Notification of the public hearing shall be as follows:

- A. A notice shall be published in a newspaper having general circulation in the town once a week, for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the hearing.
- B. A notice of a proposed Land Development Map change shall be sent by first class mail by the Zoning Administrator to the affected property and to all contiguous property owners.

The first class mail notice required under 18.8 (B) of this section shall not be required when the zoning reclassification action directly affects more than 50 properties, owned by a total of at least 50 different property owners. In such case the Town shall: shall publish once a week for two successive calendar weeks in a newspaper having general circulation in the area with a map showing the boundaries of the area affected by the proposed ordinance or amendment. The map shall not be less than one-half of a newspaper page in size. The notice shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the Town's jurisdiction or outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by mail pursuant to this section. The person or persons mailing the notices shall certify to the Town Board that fact, and the certificates shall be deemed conclusive in the absence of fraud. In addition to the published notice, a city shall post one or more prominent signs on or immediately adjacent to the subject property area reasonably calculated to give public notice of the proposed rezoning.

18.4.6 - Town Board Action On Parallel Conditional Use District Rezoning Petition

In case of protest against a CD map amendment, duly signed by the owners of twenty percent (20%) or more of the area of the lots included in such proposed change or at least 5% of the land included within a 100-foot wide buffer around each separate area proposed for rezoning, such amendment shall not become effective except by a favorable vote of three-fourths (3/4) of all the members of the Town Board on the rezoning decision only.

No protest against the proposed amendment shall be valid or effective unless it is in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the Zoning Administrator in sufficient time to allow the Town at least two (2) normal business days before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition.

Once the quasi-judicial public hearing has been conducted the Town Board shall render a decision on the petition. The decision of the Town Board shall be in the following two step form:

Step 1-Consider the Rezoning Request. The Town Board may take the following actions:

1. Grant the rezoning as requested, or
2. Grant the rezoning with a reduction of the area requested, or
3. Grant the rezoning to a more restrictive general zoning district or districts, or
4. Grant the rezoning with a combination of 2 and 3 above, or
5. Deny the rezoning application.

Step 2-If Step 1 rezoning is approved; the Town Board shall consider the Conditional Use Permit subject to the procedures enumerated in Chapter 12.9 of this Ordinance, including imposition of reasonable conditions.

The petitioner shall have the right to withdraw his petition at any time prior to the first final decision being rendered by the Town Board. The Town Board shall have the authority to call for additional quasi-judicial public hearings on any amended petition presented to them for approval as a result of testimony or other evidence in the hearing. The Town Board shall have the authority to submit such amended petition to the Planning Board for review of any additional recommended conditions.

18.4.7 - Notification of Decision on Parallel Conditional Use Rezoning Petitions

The final determination made by the Town Board, on the CD rezoning shall be sent by first class mail by the Zoning Administrator to the applicant and any persons at or before the public hearing who have indicated in writing to the Zoning Administrator that they would like the decision mailed to them, within ten (10) working days following the date of said decision.

18.4.8 - Rehearing of a Parallel Conditional Use Rezoning Petitions

- A. An application for a rehearing shall be made in the same manner as provided for an original application within a period of fifteen (15) working days after the date of the Town Board decision. In addition, specific information to enable the Town Board to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically. A rehearing shall be denied by the Town Board, if, in its judgment, such change in facts, evidence or conditions has not been proven by the applicant. A public hearing shall not be required to be held by the Town Board to consider holding such a rehearing. Approval of said consideration shall, however, require an affirmative vote of at least four (4) voting members. In the event that the Town Board finds that a rehearing is warranted, it shall thereupon proceed to hold a new quasi-judicial hearing except that the application fee shall be waived.
- B. Every CD rezoning decision of the Town Board shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina. The rezoning decision shall be reviewed and timely filed proceedings filed by the applicant. The Conditional Use Permit decision shall be reviewed by proceedings in the nature of certiorari. Any CUP petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court within thirty (30) days after the decision of the Board is filed in the office of the Zoning Administrator, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Zoning Administrator or the Town Clerk at the time of the Board's hearing of the case, whichever is later.

18.4.9 - Re-Submission of Petition of a Parallel Conditional Use Rezoning Petitions

- A. The Town Board shall not review any applications for the same CD map changes affecting the same property or any portion thereof until the expiration of one (1) year from the date of such previous denial.
- B. The Zoning Administrator may allow re-submission of such petition within said one (1) year period if it is determined that, since the date of action on the prior petition:
1. There has been a significant change in the zoning district classification of an adjacent piece of property; or
 2. The Town Board has adopted a plan that changes public policy regarding how the property affected by the previous denial should be developed;
 3. Construction or expansion of a road, water line, sewer line, or other such facilities has occurred to serve the property and could adequately accommodate the intensity of development allowed under the proposed classification; or
 4. There has been some other extraordinary change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the one year restriction on a new petition; this, however, shall not include a change in the ownership of the subject property.

18.4.10 - Certificate of Occupancy for CD Rezoning Uses

No certificate of occupancy for a use on an approved CD district site plan shall be issued for any building or land use on a piece of property covered by such CD district site unless the building is constructed or used, or the land is developed or used, in conformity with the CD district site plan and CUP approved by the Town Board. In the event that only a segment of a proposed development has been approved, the certificate of occupancy shall be issued only for that portion of the development constructed or used as approved.

18.4.11 - Amendments to Parallel Conditional Use Districts

Any request to make a major amendment to a Parallel Conditional Use District once it has been rezoned must follow the CD rezoning procedures specified in section 18.4. A request for a minor amendment, of a CD district shall be reviewed and approved administratively by the Planning Director or designee except where in their discretion, it is deemed advisable or necessary to follow the major amendment process. Major and minor amendments shall be as defined in Chapter 2 "Definitions."

18.4.12 Expiration of a Parallel Conditional Use Districts

Land shall be rezoned to a parallel conditional use district only in light of definite development plans for the land. Therefore, if within three (3) years after the date of approval of any petition for a parallel conditional use district, A valid building permit has not been issued or the development, otherwise lawfully vested, the Town Board may consider revoking the CD rezoning and

18.5 CONDITIONAL ZONING DISTRICT (CZ)

Conditional Zoning Districts (CZ) may be utilized in the RP, GR, NR, NMX, VC, TC, HC, IC and BC Districts to allow for those situations where a particular permitted use, if properly planned, may have particular impacts on both the immediate area and the community as a whole. The development of these uses cannot be predetermined or controlled by general district standards. In order to accommodate these uses, this Section establishes specific development standards for these uses, which allow for flexibility in development while protecting existing developed areas.

The rezoning process will apply only to uses that are enumerated as "Conditional Zoning" in the "Uses Permitted" subheading of the respective district. Conditional Zoning shall be subject to the specific procedural rules of this chapter. Major Subdivisions that meet the eligibility standards of a Conditional Zoning District shall be reviewed and acted upon as part of the rezoning process specified within this Section of the ordinance.

18.5.1 - Procedures For Conditional Zoning

Conditional Zoning districts are zoning districts in which the development and use of the property is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. The following zoning district categories can be conditional zoning districts:

- (a) Those uses identified in each zoning district section that are listed under the subheading “*Conditional Zoning*”

A conditional zoning district allows particular uses to be established only in accordance with specific standards and conditions pertaining to each individual development project. Some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and on the entire community, which cannot be predetermined and controlled by general district standards. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted “Land Use Plan”, adopted district area plans. The review process established in this Part provides for the accommodation of such uses by a reclassification of property into a Conditional Zoning district, subject to specific conditions, which ensure compatibility of the use with the use and enjoyment of neighboring properties. A Conditional Zoning district is generally not intended for securing early zoning for a proposal, except when that proposal is consistent with an approved district or area plan or the proposal can demonstrate that public infrastructure needed to serve the development will be made available in a reasonable time period.

18.5.2 - Content Of Application

- Application shall include the following:
 - A. Each noncontiguous parcel of land for which rezoning is requested shall be deemed as a separate application, and said application fee shall accompany each application. For the purpose of this paragraph, land located and adjacent on either side to the rear and all property directly across any street or public right-of-way from the subject property shall be deemed to be contiguous.
 - B. Each application for CZ rezoning of land shall be accompanied by five (5) copies of a map, drawn to scale, with the following information either shown on the map or accompanying it:
 1. The subject property plus such additional property as to show the location of the subject property with reference to the nearest street intersection, railroad, stream or other feature easily identifiable on the ground. In addition, all property lines which abut the property, and property owners' names and addresses of all contiguous properties shall be furnished.
 2. If the property is in a subdivision of record, a map of such portion of the subdivision that would relate the subject property to the closest street intersection, and in addition, the name of the subdivision and the plat addition and the names and addresses of all adjoining property owners (as indicated on the most up-to-date tax listings) shall be furnished.
 3. A written metes and bounds description and a boundary survey of the property(s) proposed for CZ rezoning shall accompany the map.
 4. The present and proposed zoning classification of the lot(s) in question.
 5. The property identification number(s) of the lot(s) in question as issued by the Mecklenburg County Tax Department.
 - C. In addition to the above general requirements, an application for the CZ rezoning of land to Conditional Zoning (CZ) shall be submitted in accordance with ***Section 13 Development Plan Specifications***.

- The Planning Director has the authority to waive any application requirement where the type of use or scale of proposal makes providing that information unnecessary or impractical.
- In the course of evaluating the proposed use, the Planning Director, Planning Board, or Town Board of Commissioners may request additional information from the petitioner. This information may include the following:
 - A. Proposed number and general location of all structures;
 - B. Proposed screening, buffers and landscaping over and above that required by these regulations, as well as proposed treatment of any existing natural features;
 - C. Existing and general proposed topography, if available, at four-foot contour intervals or less;
 - D. The location of significant trees on the subject property;
 - E. Scale of buildings relative to abutting property;
 - F. Height of structures;
 - G. Exterior features of proposed development;
 - a. Any other information needed to demonstrate compliance with these regulations; and
 - b. Proposed number and location of signs.
- The site plan and any supporting text shall constitute part of the petition for all purposes under this Chapter.
- The Planning Director or designee may require the petitioner to submit more than one copy of the petition and site plan in order to have enough copies available to circulate to other government agencies for review and comment.

18.5.3 - Pre-Application Meeting/Site Visit

The applicant shall submit a sketch plan compliant with of Chapter 13.4 and a general statement of development intent to the Planning Department for review as part of the pre-application meeting. The Planning Department will review with the applicant all the appropriate planning ordinances, including the Conditional Zoning Communication Policy, that are relevant to the project, including the Comprehensive Land Use Plan and any pertinent small area plans. The Planning Director or designee and the applicant will also visit the site to review general site conditions.

18.5.4 - Required Community Meeting

Before a public hearing may be held on a petition for a Conditional Zoning district, the petitioner must file in the Planning Department a written report of at least one community meeting held by the petitioner at least 1 month prior to proceeding to Planning Board. Notice of such a meeting shall be given to the property owners and organizations within ½ mile of the property proposed and are entitled to notice at least 10 days but no more than 25 days in advance. Planning Staff will be responsible for the mailed notices subject to the fee established by the Town Board. The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time and location of the meeting, a roster of the persons in attendance at the meeting, a summary of issues discussed at the meeting, and a description of any changes to the rezoning petition made by the petitioner as a result of the meeting. Additionally subsequent meetings should be held when deemed necessary in the discretion of the Planning Director or designee but will not require additional notification of neighbors. In the event the petitioner has not held at least one meeting pursuant to this subsection, the petitioner shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this section shall be considered by the Town Board of Commissioners but shall not be subject to judicial review.

18.5.5 - Approval Of Conditional Zoning

Conditional zoning district decisions are a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions. In considering any petition for a conditional zoning district, the Town Board of Commissioners shall act in accordance with the following procedures

18.5.6 - Planning Board Review and Recommendations of Conditional Zoning Petitions

Once the petition is complete, the Zoning Administrator shall refer the petition to the Planning Board for review and recommendation to the Town Board. The Planning Board shall have a maximum of thirty (30) days from the date they first meet to make such a recommendation. If a recommendation is not made during said time period, the application shall be forwarded to the Town Board without a recommendation from the Planning Board.

- A. If a recommendation is made to the Town Board by the Planning Board concerning a petition for CZ rezoning, said recommendation shall be as follows:
 - 1. Grant the rezoning as requested, or
 - 2. Grant the rezoning with a reduction of the area requested, or
 - 3. Grant the rezoning to a more restrictive general zoning district or districts, or
 - 4. Grant the rezoning with a combination of 2 and 3 above, or
 - 5. Grant the rezoning subject to approved conditions enumerated on the district plan, or
 - 6. Recommend that the rezoning be denied.

18.5.7 - Notice for Town Board Public Hearing

In order for a CZ rezoning to be made in accordance with this Section, a public hearing must first be held by the Town Board. Notification of the public hearing shall be as follows:

- A. A notice shall be published in a newspaper having general circulation in the town once a week, for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the hearing.
- B. A notice of a proposed Land Development Map change shall be sent by first class mail by the Zoning Administrator to the affected property and to all contiguous property owners.

The first class mail notice required under 18.5.7 (B) of this section shall not be required when the zoning reclassification action directly affects more than 50 properties, owned by a total of at least 50 different property owners. In such case the Town shall publish once a week for two successive calendar weeks in a newspaper having general circulation in the area with a map showing the boundaries of the area affected by the proposed ordinance or amendment. The map shall not be less than one-half of a newspaper page in size. The notice shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the Town’s jurisdiction or outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by mail pursuant to this section. The person or persons mailing the notices shall certify to the Town Board that fact, and the certificates shall be deemed conclusive in the absence of fraud. In addition to the published notice, a town shall post one or more prominent signs on or immediately adjacent to the subject property area reasonably calculated to give public notice of the proposed rezoning.

18.5.8 – Town Board Action On Conditional Zoning District Rezoning Petition

Protest Petition: In case of protest against a CZ map amendment, duly signed by the owners of twenty percent (20%) or more of the area of the lots included in such proposed change or at least 5% of the land included within a 100-foot wide buffer around each separate area proposed for rezoning, such amendment shall not become effective except by a favorable vote of three-fourths (3/4) of all the members of the Town Board.

No protest against the proposed amendment shall be valid or effective unless it is in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the Zoning Administrator in sufficient time to allow the Town at least two (2) normal business days before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition.

Public Hearing and Decision: Once the public hearing has been conducted the Town Board shall render a decision on the petition. The decision of the Town Board shall be in the form of any of the various options listed in Sections 18.5.6(A). Alternatively, the Town Board may send the application back to the Planning Board for further study and consideration. The petitioner shall have the right to withdraw his petition at any time prior to the final decision being rendered by the Town Board. The Town Board shall have the authority to call for additional public hearings on any amended petition presented in response to public hearing comments. The Town Board shall also have the authority to submit such amended petition to the Planning Board for additional review prior to any additional Town Board hearings.

18.5.9 - Notification of Decision on Conditional Zoning Rezoning Petitions

The final determination made by the Town Board, shall be sent by first class mail by the Zoning Administrator to the applicant and any persons at or before the public hearing who have indicated in writing to the Zoning Administrator that they would like the decision mailed to them, within ten (10) working days following the date of said decision. Similarly, notice shall be sent to the applicant in the same manner if the Town Board makes a decision to re-submit the petition to the Planning Board for further review.

18.5.10 - Conditions to Approval of Petition

In approving a petition for the reclassification of property to a conditional zoning district, the Planning Board may recommend, and the Town Board request, that reasonable and appropriate conditions be attached to approval of the petition. Conditions and site-specific standards shall be limited to those that address the conformance of the development and use of the site to Town ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, storm water drainage, the provision of open space, and other matters that the Town Board may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the Town, County or State, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Town Board. Only those conditions mutually approved by the Board and the petitioner may be incorporated into the petition.

18.5.11 - Effect of Approval

(1) If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the Zoning Maps.

(2) If a petition is approved, the petitioner shall comply with all requirements established for obtaining a building permit and certificate of occupancy. Only those uses and structures indicated in the approved petition and site plan shall be allowed to be permitted on the subject property and are to be constructed as shown on the approved petition and site plan.

(3) Following the approval of the petition for a Conditional Zoning district, the subject property shall be identified on the Zoning Maps by the appropriate district designation. A Conditional Zoning district shall be identified by the same designation as the underlying general district followed by the letters "CZ"

18.5.12 - Alterations and Amendments to Approvals

- Changes to an approved petition or to the conditions attached to the approved petition shall be treated the same as amendments to these regulations or to the Zoning Maps and shall be processed in accordance with the procedures of this Chapter 18.5 except as indicated below.

Chapter 18 Text/Rezoning Amendments

- Administrative amendment process.
 - A. Application for an administrative amendment. Any request for an administrative amendment shall be pursuant to a written letter, signed by the property owner, to the Planning staff detailing the requested change. Upon request, the applicant must provide any additional information that is requested. Accompanying the letter shall be the applicable fee for administrative review.
 - B. Authority to approve an administrative amendment. The Planning Director or designee shall have the delegated authority to approve an administrative amendment change to an approved site plan. The standard for approving or denying such a requested change shall be that the change does not significantly alter the site plan or its conditions and that the change does not have a significant impact upon abutting properties. Any changes that increase the intensity of the development are limited for nonresidential development to 10% of the approved requirement or 1,000 square feet, whichever is less. For residential development, increases in density are limited to 10% of the development or no more than 5 dwelling units, whichever is less. In addition to the foregoing standards, significant changes to an approved site plan that can not be considered through an administrative amendment include the following:
 1. Increasing the number of buildings
 2. Increasing the number of dwelling units more than five (5) units or 10% of the total approved, whichever is less.
 3. Reducing parking spaces below the minimum standards
 4. Reducing buffers or yards
 5. Moving structures closer to adjacent properties in a residential district or when abutting a residential use.
 6. Reducing open space
 7. Changing owner occupied units to rental if noted on the site plan
 8. Increasing the mass of buildings.

The Planning Director or designee, however, shall always have the discretion to decline to exercise the delegated administrative amendment authority either because the designee is uncertain about approval of the change pursuant to the standard or because a rezoning petition for a public hearing and Town Board consideration is deemed appropriate under the circumstances. If the Planning Director or designee declines to exercise this authority, then the applicant can only file a rezoning petition for a public hearing and Board decision.

- Staff decision, notifications, appeal process.
 1. If an administrative amendment is approved, appeals of decisions shall be subject to Chapter 16.6 of this Code and must be filed with the Planning Director or designee in writing.
 2. If an administrative amendment is denied, then the Planning Director or designee shall send written notification of the denial to the applicant. The applicant shall have 21 days from the date of the written notification to file an appeal of the decision with the Planning Director or designee.

If the denial is appealed, then the Planning staff shall send written notification per Chapter 16 of the appeal. The Planning Board shall hear the denial appeal through a quasi-judicial process sitting as Board of Adjustment

- Planning Board Appeal Process.
 1. The Planning Board shall hold a quasi-judicial hearing in the appeal. The Board may affirm, reverse or modify the denial under appeal, making findings of fact and conclusions of law to support its decision.
 2. Appeals of the Planning Board decision may be made to Superior Court in accordance with applicable law.

18.5.13 - Protest Petitions on Non-Administrative Amendments

Protest petitions shall not be valid for any amendment to an adopted conditional zoning district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers or screening approved for the conditional zoning district.

18.5.14 - Review of Approval of a Conditional Zoning District

It is intended that property shall be reclassified to a conditional zoning district only in the event of firm plans to develop the property. Therefore, no sooner than three years after the date of approval of the petition, the Town Board of Commissioners may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Town Board of Commissioners determines that adequate progress has not been made in accordance with the approved petition and conditions, it may initiate rezoning that the property to the appropriate classified general district following the general rezoning process outlined in Section 18.3 of this chapter, to the extent the property is not lawfully vested at such time.

18.5.15 - Conversion of Parallel Conditional Use District to Conditional Zoning

A property zoned Parallel Conditional Use district, may rezone to a Conditional Zoning district when amending a plan if the portion of the plan being requested for rezoning meets the criteria for eligibility for Conditional Zoning as enumerated in Chapter 5 within each districts "Uses Permitted" under the heading "Conditional Zoning".

Chapter 18 Text/Rezoning Amendments

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